

## Office of the Secretary, Interior

## §4.413

### § 4.413 Service of notice of appeal.

(a) The appellant must serve a copy of the notice of appeal on each person named in the decision from which the appeal is taken and on the Office of the Solicitor as identified in paragraphs (c) and (d) of this section. Service must be

accomplished and certified as prescribed in §4.401(c).

(b) Failure to serve a notice of appeal will subject the appeal to summary dismissal as provided in §4.402.

(c) The appellant must serve a copy of the notice of appeal on the Office of the Solicitor as shown in the following table.

If the appeal is taken from a decision of . . .	Then the appellant must serve the notice on . . .
(1) ONRR, the Deputy Assistant Secretary—Natural Resources Revenue, or BIA concerning royalties.	Regional Solicitor, Rocky Mountain Region, U.S. Department of the Interior, 755 Parfet Street, Suite 151, Lakewood, CO 80215.
(2) BOEMRE .....	Associate Solicitor, Division of Mineral Resources, U.S. Department of the Interior, Washington, DC 20240.
(3) The Director, BLM .....	(i) If the decision concerns use and disposition of public lands, including land selections under the Alaska Native Claims Settlement Act, as amended: Associate Solicitor, Division of Land and Water Resources, U.S. Department of the Interior, Washington, DC 20240; or (ii) If the decision concerns use and disposition of mineral resources: Associate Solicitor, Division of Mineral Resources, U.S. Department of the Interior, Washington, DC 20240.
(4) A BLM State Office (including all District, Field, and Area Offices within that State Office's jurisdiction).	The appropriate office identified in paragraph (d) of this section.
(5) An Administrative Law Judge .....	The persons identified in paragraph (e) of this section.

(d) This paragraph applies to any appeal taken from a decision of a BLM State Office, including all District, Field, and Area Offices within that State Office's jurisdiction. The appel-

lant must serve documents on the Office of the Solicitor in accordance with the following table, unless the decision identifies a different official:

BLM state office	Mailing address
(1) Alaska .....	Regional Solicitor, Alaska Region, U.S. Department of the Interior, 4230 University Drive, Suite 300, Anchorage, AK 99508-4626.
(2) Arizona .....	Field Solicitor, U.S. Department of the Interior, U.S. Courthouse, Suite 404, 401 W. Washington St. SPC 44, Phoenix, AZ 85003.
(3) California .....	Regional Solicitor, Pacific Southwest Region, U.S. Department of the Interior, 2800 Cottage Way, Room E-1712, Sacramento, CA 95825-1890.
(4) Colorado .....	Regional Solicitor, Rocky Mountain Region, U.S. Department of the Interior, 755 Parfet Street, Suite 151, Lakewood, CO 80215.
(5) Eastern States .....	(i) For decisions involving Connecticut, Delaware, Illinois, Indiana, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, or Wisconsin: Regional Solicitor, Northeast Region, U.S. Department of the Interior, One Gateway Center, Suite 612, Newton, MA 02458. (ii) For decisions involving Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, South Carolina, or Tennessee: Regional Solicitor, Southeast Region, U.S. Department of the Interior, 75 Spring Street, SW., Suite 304, Atlanta, Georgia 30303.
(6) Idaho .....	Field Solicitor, U.S. Department of the Interior, University Plaza, 960 Broadway Avenue, Suite 400, Boise, ID 83706.
(7) Montana (covers the states of Montana, North Dakota, and South Dakota).	(i) Deliveries by U.S. Mail: Field Solicitor, U.S. Department of the Interior, P.O. Box 31394, Billings, MT 59107-1394. (ii) All other deliveries: Field Solicitor, U.S. Department of the Interior, 316 North 26th Street, Room 3005, Billings, MT 59101.
(8) Nevada .....	Regional Solicitor, Pacific Southwest Region, U.S. Department of the Interior, 2800 Cottage Way, Room E-1712, Sacramento, CA 95825-1890.
(9) New Mexico (covers the states of New Mexico, Kansas, Oklahoma, and Texas).	Regional Solicitor, Southwest Region, U.S. Department of the Interior, 505 Marquette Ave., NW., Suite 1800, Albuquerque, NM 87102.
(10) Oregon (covers the states of Oregon and Washington).	Regional Solicitor, Pacific Northwest Region, U.S. Department of the Interior, 805 SW. Broadway, Suite 600, Portland, OR 97205.
(11) Utah .....	Regional Solicitor, Intermountain Region, U.S. Department of the Interior, 6201 Federal Building, 125 South State Street, Salt Lake City, UT 84138-1180.

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BLM state office	Mailing address
(12) Wyoming (covers the states of Wyoming and Nebraska).	Regional Solicitor, Rocky Mountain Region, U.S. Department of the Interior, 755 Parfet Street, Suite 151, Lakewood, CO 80215.

(e) This paragraph applies to any appeal taken from a decision of an administrative law judge.

(1) Except as provided in paragraph (e)(2) of this section, the appellant must serve either:

(i) The attorney from the Office of the Solicitor who represented the Bureau or Office at the hearing; or

(ii) If there was no hearing, the attorney who was served with a copy of the decision by the administrative law judge.

(2) If the decision involved a mining claim on national forest land, the appellant must serve either:

(i) The attorney from the Office of General Counsel, U.S. Department of Agriculture, who represented the U.S. Forest Service at the hearing; or

(ii) If there was no hearing, the attorney who was served with a copy of the decision by the administrative law judge.

(f) Parties must serve the Office of the Solicitor as required by this section until a particular attorney of the Office of the Solicitor files and serves a Notice of Appearance or Substitution of Counsel. Thereafter, parties must serve the Office of the Solicitor as indicated by the Notice of Appearance or Substitution of Counsel.

(g) The appellant must certify service as provided in § 4.401(c)(5).

[75 FR 64666, Oct. 20, 2010]

### § 4.414 Answers.

(a) Any person served with a notice of appeal who wishes to participate in the appeal must file an answer or appropriate motion with the Board within 30 days after service of the statement of reasons for appeal. The answer must respond to the statement of reasons for appeal.

(b) Unless the Board orders otherwise upon motion for good cause shown:

(1) The text of the answer or motion may not exceed 30 pages, excluding exhibits, declarations, or other attachments; and

(2) The party may not file any further pleading.

(c) Failure to file an answer or motion will not result in a default. If an answer or motion is filed or served after the time required, the Board may disregard it in deciding the appeal, unless the delay in filing is waived as provided in § 4.401(a).

(d) The requirements of § 4.401(d) apply to an answer or motion.

[75 FR 64666, Oct. 20, 2010]

### § 4.415 Motion for a hearing on an appeal involving questions of fact.

(a) Any party may file a motion that the Board refer a case to an administrative law judge for a hearing. The motion must state:

(1) What specific issues of material fact require a hearing;

(2) What evidence concerning these issues must be presented by oral testimony, or be subject to cross-examination;

(3) What witnesses need to be examined; and

(4) What documentary evidence requires explanation, if any.

(b) In response to a motion under paragraph (a) of this section or on its own initiative, the Board may order a hearing if there are:

(1) Any issues of material fact which, if proved, would alter the disposition of the appeal; or

(2) Significant factual or legal issues remaining to be decided, and the record without a hearing would be insufficient for resolving them.

(c) If the Board orders a hearing, it must:

(1) Specify the issues of fact upon which the hearing is to be held; and

(2) Request the administrative law judge to issue:

(i) Proposed findings of fact on the issues presented at the hearing;

(ii) A recommended decision that includes findings of fact and conclusions of law; or